



## OFFICE OF THE DEPUTY ATTORNEY GENERAL

WASHINGTON, D.C. 20530

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75-10524

December 31, 1975

Honorable William E. Colby  
Director  
Central Intelligence Agency  
Washington, D. C. 20505

Dear Mr. Colby:

This is in response to the Central Intelligence Agency's request, transmitted by memorandum of November 25, 1975, from [redacted] Deputy General Counsel, to Messrs. Kevin Maroney and Ronald Gainer of this Department, for our views with respect to your Agency's revised draft statute to provide increased protection for information relating to foreign intelligence sources and methods.

As you will recall, although this Department opposed the original draft bills on this subject prepared by the C.I.A., the Attorney General, by letter of July 25, 1975, advised you that we would not oppose the submission to Congress of the Agency's then most recent proposal if several changes we recommended were made, principally as regards the definition of the phrase "information relating to intelligence sources and methods", that in our view would not detract from the basic thrust of the proposed bill.

Since that time, members of the Criminal Division have worked with attorneys in the Agency to resolve the remaining points that precluded this Department from supporting the proposed legislation.

I am pleased to report that these efforts have been largely successful and that, with the following relatively minor amendments, the latest version of a proposed statute, on which [redacted] solicited our views, is basically satisfactory from the standpoint of this Department's concerns.

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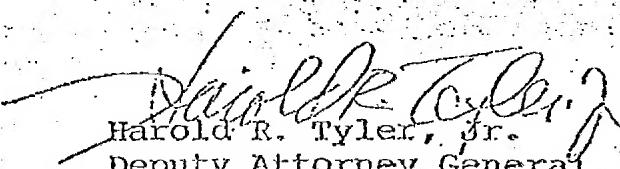
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Our principal remaining objection concerns subparagraph 6(A) of the proposed statute which provides that in any in camera procedure held for the purpose of determining whether, in a criminal prosecution, the information communicated was lawfully classified and lawfully designated, "the court may require the presence of all parties and their attorneys and production of a record of the proceedings". We would prefer that this subparagraph be deleted, so as to preserve the option of arguing that, to the extent constitutionally permissible, the in camera determination should be made ex parte. For reasons there explained and with which we agree, this is the position taken in the draft Committee Report as to the comparable provision in S. 1, and thus the deletion of subparagraph 6(A) would be consistent with that bill.

We also suggest that, for purposes of avoiding possible misconstruction, the phrase "immunity conferred" in paragraph (3) be replaced by another phrase such as "bar created" or "exemption created".

If these changes are adopted, we would not object to the submission of the revised bill to Congress.

Sincerely,

  
Harold R. Tyler, Jr.  
Deputy Attorney General

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